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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/782,823

02/23/2004

David E. Leeman

5456

7590

02/26/2007

James C. Wray
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EXAMINER

PARSLEY, DAVID J

ART UNIT

PAPER NUMBER

3643

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/782,823

Applicant(s)

LEEMAN, DAVID E.

Examiner

David J. Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12-14-06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 12-14-06 and this action is final.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-9 and 23-42 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation of the entire extension inserted through one of the rectangular openings of the wire grid as seen in line 14-15 of claim 1 and lines 23-24 is not described in the specification in that as seen in applicant's figures 1 and 13-14 the base portion – at 51 of the extension – at 41 is located below the undercut which engages the wire grid and therefore the base would not extend through the wire grid.

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3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 and 10-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 10 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The undercuts as claimed are not physically tangible structural elements and are open spaces and therefore the claims as written make it unclear into which structural element of the device the undercuts are formed. Further, in claim 23 the first mention of the wire grid is in functional language in lines 12-14 and therefore since the wire grid was not previously positively recited in the claim language there is no antecedent basis for this limitation.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,914,856 to Kennedy in view of U.S. Patent No. 5,617,669 to Levey and U.S. Patent No. 5,187,893 to Knight.

Referring to claim 10, Kennedy discloses a bait trap comprising, first and second pivotally connected portions – of item 10, for forming a complete cylindrical container – see figure 2, top, bottom and side surfaces in each of the first and second portions of the cylindrical container – see at 10 in figures 2-3, one or more openings – at 80 and proximate 70 proximate 54, in the side surfaces of the cylindrical container portions – see figures 2-3, one or more hinges on edges of the side surfaces, the hinges pivotally connected the first half to the second half – at 60,64 – see figures 2-4, raised regions – at 74,70, on the top and bottom of at least one of the cylindrical halves for improving grip – see figures 2-5, protrusions and tabs – at 58,68,72, on edges of the surfaces of the first and second portions for locking the cylindrical container closed – see figures 2-5, protrusions and tabs on edges – at 58,68,72, of the first and second halves for locking the cylindrical container closed – see figures 2-5. Kennedy further discloses extensions – at 48,50, on edges of the side surfaces opposite the edges with the hinges – see figures 2-3, with a top – at the top of the wire – at 48,50, a gap – proximate 50 and 38 as seen in figures 2-5, and a base – at 50, connected to the side edges – see at 48 in figure 5, and undercuts in the gap – see proximate 38,48, for locking a wire grid between the undercuts and the edges of the side surfaces – see at the wire grid of the trap in figure 1. Kennedy does not disclose the cylindrical container is formed of first and second halves. Levey does disclose the cylindrical container – at 10, is made of first and second halves – at 12,14 – see figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kennedy and add the cylindrical container made of first and second halves of Levey, so as to allow for the device to be opened to insert and/or remove items from the interior of the device. Kennedy does not disclose protrusions and tabs on edges of the top and bottom surfaces of the first and second halves for locking the

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cylindrical container closed. Levey does disclose protrusions and tabs – at 26,28,36,34,38, on edges of the top and bottom surfaces of the first and second halves for locking the cylindrical container closed – see figures 1-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kennedy and add the protrusions and tabs of Levey, so as to removably securely hold the halves of the cylinder together. Kennedy further does not disclose each of the extensions having an enlarged top, a base connected to the side surface edge and undercuts beneath the enlarged top forming a gap adjacent the base for locking a wire grid between the enlarged top and the side surfaces. Knight does disclose each of the extensions – at 16-39, having an enlarged top – at 16, a base – at 23,24,26,39, connected to the side surface edge – see figures 1-3, and undercuts beneath the enlarged top – see proximate 23, 24 and 26, forming a gap adjacent the base for locking a wire grid – at 15,15',15'', between the enlarged top and the side surfaces – see figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kennedy and add the extensions of Knight, so as to removably secure items to the wire grid.

Referring to claim 12, Kennedy as modified by Levey and Knight further discloses the bait trap is used inside fishing traps – see figure 1 of Kennedy.

Referring to claim 13, Kennedy as modified by Levey and Knight further discloses the cylinder is plastic – see column 2 lines 23-50 of Kennedy.

Referring to claim 14, Kennedy as modified by Levey and Knight further discloses the one or more openings are rectangular – see at 80 in figure 2 of Kennedy.

Referring to claim 15, Kennedy as modified by Levey and Knight further discloses the one or more openings are arranged in rows – see at 80 in figure 2 of Kennedy.

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Referring to claim 21, Kennedy as modified by Levey and Knight further discloses the first and second halves are closed by pushing two halves together and locking the protrusions into the tabs – see at 58-72 in figures 2-4 of Kennedy.

Referring to claim 22, Kennedy as modified by Levey and Knight further discloses the first and second halves are opened by applying pressure to the top and bottom surfaces and pulling the first and second halves away from one another – see at 58-72 in figures 2-4 of Kennedy.

Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy as modified by Levey and Knight as applied to claim 10 above, and further in view of GB Patent No. 2226743 to Bristow.

Referring to claim 16, Kennedy as modified by Levey and Knight does not disclose the raised regions are concentric ridges on the top and bottom surfaces of the cylindrical container. Bristow does disclose the raised regions are concentric ridges – at 30-38, on the top and bottom surfaces of the cylindrical container – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kennedy as modified by Levey and Knight and add the concentric ridges on the top and bottom surfaces of Bristow, so as to allow for any objects located inside the device to be securely held inside the device.

Referring to claim 17, Kennedy as modified by Levey and Knight does not disclose the raised regions are dimples along the outside surface of the cylindrical container. Bristow does disclose the raised regions – at 36, are dimples on the outside surface of the cylindrical container – see for example figure 3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kennedy as modified by Levey and Knight and add the raised dimples

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on the container of Bristow, so as to allow for any objects located inside the device to be securely held inside the device.

Claims 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy as modified by Levey and Knight as applied to claim 10 above, and further in view of U.S. Patent No. 5,606,820 to Suddeth.

Referring to claim 18, Kennedy as modified by Levey and Knight does not disclose the one or more hinges is three hinges. Suddeth does disclose the one or more hinges – at 52,54, is three hinges – see for example figures 5-6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kennedy as modified by Levey and Knight and add three hinges of Suddeth, so as to allow for the two halves of the container to be securely and movably connected to one another.

Referring to claim 20, Kennedy as modified by Levey and Knight does not disclose the hinges are vertical bars on half of the cylindrical container that lock into half circle depressions on the opposite half of the cylindrical container. Suddeth does disclose the hinges – at 52,54, are vertical bars – at 52, on half of the container that lock into half circle depressions – at 54, on the opposite half of the container – see for example figures 3-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kennedy as modified by Levey and Knight and add the hinges comprising bars and half circle depressions of Suddeth, so as to allow for the two halves of the container to be securely held together.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy as modified Levey and Knight as applied to claim 10 above, and further in view of U.S. Patent No. 4,638,588 to Abadie. Kennedy as modified by Levey and Knight does not disclose a loop for

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hanging the apparatus when not in use. Abadie does disclose a loop – at 36, for hanging the apparatus when not in use – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kennedy as modified by Levey and Knight and add the hanging loop of Abadie, so as to allow for the device to be easily stored and transported.

Allowable Subject Matter

5. Claims 1-9 and 23-42 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 1st and 2nd paragraph, set forth in this Office action. For example the following claim language can be added to independent claims 1 and 23 to overcome the 112 1st and 2nd paragraph rejections:

In claim 1, "...a plurality of undercuts formed in the extension adjacent to the base of the extension, said undercuts forming a gap between the top surface of the extension and the device to be mounted,

the enlarged, generally rectangular top surface and the generally rectangular base of the extension are both smaller in dimensions than the generally rectangular openings in the wire grid so that the top surface of the extension is adapted to be inserted into and extend entirely through at least one of the openings of the wire grid,

wherein when the entire top surface of the extension is inserted through one of the generally rectangular openings in the wire grid until the undercuts which form a gap are in the

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plane of the wire grid, and the extension and device to be mounted are rotated roughly 45 degrees...”

In claim 23, “...a wire grid having generally rectangular openings therein....

...the extension has an enlarged, generally rectangular top surface that is larger than a generally rectangular base of the extension which is connected to the cylindrical container, and the enlarged, generally rectangular top surface and the generally rectangular base of the extension are both smaller in dimensions than the generally rectangular opening in the wire grid so that the top surface of the extension is adapted to be inserted into and extend entirely through at least one of the openings of the wire grid,

a plurality of undercuts formed in extension adjacent to the base of the extension, said undercuts forming a gap between the top surface of the extension and the side surface of the cylindrical container,

wherein when the entire top surface of the extension is inserted through one of the generally rectangular openings in the wire grid until the undercuts which form the gap are in the plane of the wire grid, and the extension and device to be mounted are rotated roughly 45 degrees...”

Response to Arguments

6. Applicant's arguments with respect to claims 10-22 have been considered but are moot in view of the new ground(s) of rejection in that the Levey reference US 5617669 and Knight

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reference US 5187893 are used to disclose the limitations not disclosed by the Kennedy reference US 4914856.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


David Parsley
Patent Examiner
Art Unit 3643